

BENJAMIN W. DULANY*RECORDATION NO. 13396-1 Filed 142b

KENNETH WELLS PARKINSON

DANIEL WEBSTER COON*

ARTHUR C. ELGIN, JR.*

JAMES P. SCHALLER*

JO V. MORGAN, JR.*

JOHN A. NEVIUS

PATRICIA D. GURNE

NICHOLAS STILLWELL McCONNELL**

ALAN R. SWENDIMAN*

SIDNEY C. COUSINS, JR.*

PATRICK L. WOODWARD*

JAMES R. MICHAL*

M. ELIZABETH MEDAGLIA*

DAVID H. COX*

MICHAEL J. McMANUS*

JOHN J. BRENNAN, III**

RICHARD W. BRYAN*

CHRISTINE A. NYKIEL*

PAUL S. SCHLEIFMAN*

TIMOTHY R. DINGILIAN*

ANTOINETTE A. LEBEL

RICHARD J. DEFEO, JR.

MARY LYNN REED*

WARREN LUTZ*

* ALSO ADMITTED IN MARYLAND

* ALSO ADMITTED IN VIRGINIA

LAW OFFICES

JACKSON & CAMPBELL, P.C.

ONE LAFAYETTE CENTRE

SUITE 300 SOUTH

1120 20TH STREET, N.W.

WASHINGTON, D.C. 20036-6438

INT'L TELEX: 64706

TELECOPIER (202) 457-1678

(202) 457-1600

May 28, 1987

HAND-DELIVERED

THOMAS SEARING JACKSON*

EDMUND D. CAMPBELL*

OF COUNSEL

MARYLAND OFFICE

1400 MONROE STREET

ROCKVILLE, MARYLAND 20850

(301) 340-0450

VIRGINIA OFFICE

1008 NORTH RANDOLPH STREET

SUITE 104

ARLINGTON, VIRGINIA 22201

(703) 522-1330

DIRECT DIAL NUMBER

457-1638

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

Ms. Noreta R. McGee
Office of the Secretary
Recordation Office
Interstate Commerce Commission
12th Street and Constitution
Avenue, N.W.
Washington, D.C. 20423

RECORDATION NO. 13396-1 Filed 142b

MAY 28 1987 - 9 30 AM

INTERSTATE COMMERCE COMMISSION

Re: Equifund L.P.; Citibank, N.A.,
Firemen's Insurance Company of
Newark, New Jersey;
The Connecticut National Bank;
ICC Recordation No. 13396-C, 13396-D,
13396-E, 13396-F, 13396-G, 13396-H,
13396-I and -13396-J

Dear Ms. McGee:

In accordance with the provisions of Section 11303 of the Revised Interstate Commerce Act, 49 U.S.C. § 11303, and Part 1177 of Title 49 of the Code of Federal Regulations, we request, as special counsel for Citibank, N.A., that the enclosed documents be recorded and filed with the Interstate Commerce Commission.

You will find enclosed executed originals of the following documents:

1. Restructure Agreement, dated as of May 15, 1987, among Equifund L.P., Citibank, N.A., and Firemen's Insurance Company of Newark, New Jersey.

Ms. Noreta R. McGee
May 28, 1987
Page two

Document
STAMPED

This Restructure Agreement is intended, in pertinent part, to restructure the Bank Loan Agreement between Citibank, N.A. and Equifund L.P. This Restructure Agreement should be filed and recorded as Recordation No. 13396-~~C~~3 -C

2. Reimbursement Agreement, dated as of May 15, 1987, among Firemen's Insurance Company of Newark, New Jersey, Equifund L.P., and Citibank, N.A. -D

This Reimbursement Agreement is intended, in pertinent part, to provide additional security for Citibank, N.A. in connection with the Restructure Agreement noted above. This Reimbursement Agreement should be filed and recorded as Recordation No. 13396-~~D~~.C

3. Mortgage and Security Agreement, dated as of May 15, 1987 (the "Firemen's Mortgage and Security Agreement"), by and between Equifund L.P. and Firemen's Insurance Company of Newark, New Jersey.

This Mortgage and Security Agreement is intended, in pertinent part, to provide security to Firemen's Insurance Company of Newark, New Jersey for the obligations incurred by said Company in the Reimbursement Agreement stated above. This Mortgage and Security Agreement should be filed and recorded as Recordation No. 13396-~~D~~.D -E

4. Assignment, dated as of May 15, 1987, of Mortgage and Security Agreement, dated as of May 15, 1987, from Firemen's Insurance Company of Newark, New Jersey, to The Connecticut National Bank, as Trustee.

This Assignment is intended, in pertinent part, to assign the rights of Firemen's Insurance Company of Newark, New Jersey under the Mortgage and Security Agreement noted above at paragraph 3 to The Connecticut National Bank, as Trustee. This Assignment should be filed and recorded as Recordation No. 13396-~~E~~ -F

5. Third Amendment (dated as of May 15, 1987) to Mortgage and Security Agreement, dated December 30, 1981 (as so amended, the "Citibank Mortgage and Security Agreement") by Equifund L.P. and Citibank, N.A.

This Third Amendment is intended, in pertinent part, to reflect the changes to the Mortgage and Security Agreement, dated December 30, 1981, by Equifund L.P. and Citibank, N.A., as required by the Restructure Agreement and other documents identified herein. This Third Amendment should be filed and recorded as Recordation No. 13396-~~F~~.F -G

Ms. Noreta R. McGee
May 28, 1987
Page three

Doc'T
STAMPED

6. Assignment, dated as of May 15, 1987, of Mortgage and Security Agreement, dated December 30, 1981, from Citibank, N.A., to The Connecticut National Bank, as Trustee.

This Assignment is intended, in pertinent part, to effectuate the assignment by Citibank, N.A. of its rights under the Citibank Mortgage and Security Agreement, dated December 30, 1981, and the collateral described therein to The Connecticut National Bank, as Trustee. This Assignment should be filed and recorded as Recordation No. 13396-~~2.8~~

- H

7. Trust Agreement, dated as of May 15, 1987, among Equifund L.P., Citibank, N.A., Firemen's Insurance Company of Newark, New Jersey, and The Connecticut National Bank, as Trustee.

This Trust Agreement is intended, in pertinent part, to delineate the relative rights and responsibilities as between Equifund L.P., Citibank, N.A., Firemen's Insurance Company of Newark, New Jersey, and The Connecticut National Bank, as Trustee, with regard to the Railcars and other collateral described therein and the proceeds received with regard to said railcars and other collateral. This Trust Agreement should be filed and recorded as Recordation No. 13396-~~4~~

- I

8. Amended and Restated Equipment Loan Agreement, dated as of May 15, 1987, among Equifund L.P. and Citibank, N.A.

This Amended and Restated Equipment Loan Agreement is intended, in pertinent part, to reflect and incorporate the various changes effectuated through the foregoing seven (7) documents and sets forth in one document the Equipment Loan Agreement, as amended and restated in connection therewith. This Amended and Restated Equipment Loan Agreement should be filed and recorded as Recordation No. 13396-~~2.2~~

- J

The above-referenced documents relate, inter alia, to the right, title and interest in and to certain Railcars, which Railcars are more specifically described in the above-referenced documents; for example and in particular, Exhibit "F" to the Amended and Restated Equipment Loan Agreement, dated as of May 15, 1987.

The parties to the aforesaid documents are as stated above. The addresses of the various parties are as follows:

Ms. Noreta R. McGee
May 28, 1987
Page four

Equifund L.P.
750 Third Avenue
New York, New York 10528

Citibank, N.A.
450 Mamaroneck Avenue
Harrison, New York 10528

Firemen's Insurance Company
of Newark, New Jersey
180 Maiden Lane
New York, New York 10038

The Connecticut National Bank
777 Main Street
Hartford, Connecticut 06115

You will also find enclosed herewith a check made payable to the Interstate Commerce Commission in the amount of Eighty Dollars (\$80.00), which amount is intended as full and final payment of the filing fee to be incurred in connection herewith.

Would you please stamp, as filed, each of the duplicate originals enclosed herewith and return the stamped duplicate originals not used by your office to our office at your earliest possible convenience?

If you have any questions in this regard, please do not hesitate to contact us.

Sincerely yours,

JACKSON & CAMPBELL, P.C.

By:


Richard W. Bryan

RWB/lg

Enclosures As Stated

cc: Richard F. Hahn, Esquire
Mr. Gary G. Groot

MAY 28 1987 -9 20 AM

INTERSTATE COMMERCE COMMISSION

MORTGAGE AND SECURITY AGREEMENT

This Mortgage and Security Agreement is made and entered into this 15th day of May, 1987, by and between EQUIFUND L.P., a Delaware limited partnership (the "Grantor"), and FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY (the "Surety").

IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

1. For good and sufficient value received, the Grantor hereby pledges, mortgages, assigns, transfers and grants a security interest in the following collateral (the "Collateral") to the Surety to wit:

- I. One hundred eighteen (118) 70 ton RBL Type refrigerator cars, manufactured and reconditioned by Fruit Growers Express Company, (i) AAR Mechanical Designation RBL; (ii) AAR Car Type Code R206; (iii) Road Initials and Numbers SOU 780000 to SOU 780014, SOU 780016 to SOU 780041 and SOU 780043 to SOU 780119 (all inclusive); and (iv) as it is intended that these cars will be subjected to a mortgage, all are legended to the following effect: "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION."
- II. Two hundred forty-nine (249) 4750 cubic foot covered hopper cars, with snubbers, manufactured by Ingalls Industrial Products Division of Litton Industries, Inc., (i) AAR Mechanical Designation LO; (ii) AAR car type code L153; (iii) Road Initials and Numbers OKKT 087115, OKKT 087206, NAHX 487818, OKKT 087986, OKKT 087995, NAHX 487998, OKKT 088028, WSOR 487768, WSOR 487771, WSOR 487804, WSOR 487805, WSOR 487842, CC 487010, CC 487198, CC 487786 to 487788, CC 487807, CNW 470704, NAHX 487109 to 487114, NAHX 487116 to 487152, NAHX 487154 to 487174, NAHX 487176 to NAHX 487182, NAHX 487184 to 487197, NAHX 487199 to 487205, NAHX 487208, NAHX 487382, NAHX 487736 to 487765, CC 487767, NAHX 487769, NAHX 487770, NAHX 487772 to 487785, NAHX

487789 to 487803, NAHX 487806, NAHX 487810 to 487817, NAHX 487819 to 487840, NAHX 487843, NAHX 487984, NAHX 487985, NAHX 487987 to 487994, NAHX 487996, NAHX 487997, NAHX 487999 to 488011, NAHX 488013 to 488027, NAHX 488029, and NAHX 488030 (all inclusive); and (iv) as it is intended that these cars will be subjected to a mortgage, all are legended to the following effect: "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION."

III. All of the Grantor's right, title and interest in, to and under any leases, including the lease with Southern Railway Company dated December 18, 1981 (the "Southern Lease") covering the aforesaid RBL Type Refrigerator Cars and the lease with North American Car Corporation dated December 30, 1981 (the "NAC Lease") covering the aforesaid Covered Hopper Railcars (all such leases being the "Leases"), to which the aforesaid RBL Type Refrigerator Cars or the aforesaid Covered Hopper Railcars may now or hereafter be subject, other than amounts payable by reason of Section 15 of the Southern Lease or Section 6.02 of the NAC Lease, including without limitation:

(a) the immediate and continuing right to receive all rents, payments and indemnities under the Leases;

(b) upon a lessee's failure to make any payment or perform any required act under any Lease the right to make such payment or perform such act;

(c) the right to declare an event of default or default under any Lease; and

(d) the right to take such action upon the occurrence of an event of default or default under any Lease or an event which with notice or lapse of time or both would become an event of default or default under any Lease, including the commence-

ment, conduct and consummation of legal, administrative or other proceedings as shall be permitted by any Lease or by law, and to do any and all other things whatsoever that the Grantor is or may be entitled to do under the Lease upon such occurrence.

2. This Mortgage and Security Agreement is made and given by the Grantor in order to afford security to the Surety for the payment in full of all amounts now or hereafter payable by the Grantor to the Surety arising under or relating in any way to the Reimbursement Agreement, dated the date hereof (the "Reimbursement Agreement"), among the Grantor, the Surety and Citibank, N.A. (the "Bank") and all amounts due the Trustee (as hereinafter defined) under Section 4.1 of the Trust Agreement (as hereinafter defined) (all such amounts being the "Amounts Payable"). In connection with the Reimbursement Agreement, the Surety is concurrently herewith assigning its rights hereunder to The Connecticut National Bank, as trustee (the "Trustee"), under that certain Trust Agreement dated as of May 15, 1987 (the "Trust Agreement") among the Grantor, the Surety, the Trustee and the Bank and entering into that certain Restructure Agreement dated as of May 15, 1987 (the "Restructure Agreement") among the Grantor, the Surety and the Bank.

3. The Grantor hereby covenants and agrees with the Surety that it will:

(a) Mark each car forming part of the Collateral appropriately to show the Grantor's ownership and with its assigned reporting mark and number in accordance with the rules and regulations of the American Association of Railroads (A.A.R.), and the Grantor will maintain and cause the Collateral to be always so marked while this instrument remains in effect and will not, during such period, cause or allow the Collateral to be marked so as to indicate ownership in any other party or to be renumbered without the prior written consent of the Surety, nor will the Grantor allow any of the Collateral to be marked so as to indicate a lien thereon allegedly held by any party other than the Surety (except the lien in favor of the Bank under the Bank Mortgage and Security Agreement (as defined in the Restructure Agreement)).

(b) Maintain the Collateral or cause the same to be maintained in good and proper working order

throughout the period this instrument remains in effect, and the Collateral shall not be used for any purpose other than normal rail transportation of goods for which they are suited without the prior written consent of the Surety.

(c) Permit the Surety and its agents to inspect the Collateral and the books and records of the Grantor regarding same at any reasonable time, and from time to time, and will at all times keep track of the location of each piece of the Collateral and will promptly on request by the Surety furnish same a statement setting forth the location and condition of each car forming part of the Collateral.

(d) Subject to the priorities set forth in the Restructure Agreement and the Trust Agreement, pay and reimburse the Surety for the expenses, including attorneys' fees, incurred in the preparation of this Mortgage and Security Agreement and other documents pertaining to this transaction, and for the cost of all recording and filing deemed necessary by the Surety to perfect its lien on the Collateral.

(e) Subject to the priorities set forth in the Restructure Agreement and the Trust Agreement, promptly notify the Surety in writing in the event any of the cars forming the Collateral are substantially damaged or destroyed as a result of any accident, calamity or other occurrence, and will assign and pay to the Surety any compensation as a result of such damage or destruction of the Collateral received under the American Association of Railroads Mechanical Interchange Rules, under any insurance policy or otherwise.

4. The Grantor will at all times maintain or cause to be maintained insurance in respect of the Collateral to the extent required by Section 4.01(h) of the Bank Loan Agreement (as defined in the Reimbursement Agreement).

5. (a) Upon the occurrence of any Restructure Event of Default (as defined in the Restructure Agreement) or any default by the Grantor in the performance of any of its obligations under the Reimbursement Agreement or the Surety Security Documents (as defined in the Reimbursement Agreement) (an "Event of Default"), the Surety may, at its option and without further notice,

proceed to forthwith realize upon the Collateral and all other security for the Amounts Payable. On the occurrence of such an Event of Default, the Surety shall have all of the rights and remedies in and against the Collateral and otherwise available under Federal law and to a secured party under the Uniform Commercial Code as adopted in the State of New York and all other applicable laws, in addition to all rights and remedies provided herein or in the Reimbursement Agreement, the Trust Agreement or the Restructure Agreement, all of which rights and remedies shall be cumulative to the fullest extent permitted by law. Following an Event of Default, the Surety shall have the right to require the Grantor, at the latter's expense, to assemble the Collateral and make it available to the Surety at such rail points as are feasible and designated by the Surety, and the Surety may immobilize and keep from use all or any part of the Collateral, with or without proceeding to sell the Collateral or any part thereof, and shall also have the right to lease all or part of the Collateral to other parties with or without taking possession thereof. The Surety shall have the right at its discretion to sell the Collateral at public or private sale(s) in one or more lots. The Grantor will on demand by the Surety pay, as part of the indebtedness and obligations hereby secured, all amounts, including but not limited to attorneys' fees, permitted by law, with interest on all such amounts paid by the Surety at the rate of 10% per annum, incurred or paid by the Surety as expenses in taking possession of, preserving and disposing of the Collateral, including any taxes, insurance and maintenance costs incurred during such proceedings. The requirement of reasonable notice of time and place of disposition of the Collateral by the Surety shall be conclusively met if such Notice is mailed, postage prepaid, to the Grantor's last address as furnished to the Surety at least fifteen (15) days before the sale or disposition. The Surety may bid upon and purchase any or all of the Collateral at any public sale thereof. The Surety may dispose of all or any part of the Collateral in one or more lots and at one or more times and from time to time, and upon such terms and conditions, including a credit sale, as the Surety determines in its sole discretion. The Surety may apply the net proceeds of any such disposition of Collateral or part thereof, after deducting all costs incurred in connection therewith, including the Surety's attorneys' fees and expenses incidental to preparing for sale and sale of the Collateral, and with interest thereon at the rate

specified above, in such order as the Surety may elect, to the indebtedness of the Grantor secured hereunder, and any remaining proceeds, after all such indebtedness and other amounts due hereunder are satisfied in full, shall be paid to the Grantor or other party legally entitled thereto.

(b) Without limitation of the provisions of the foregoing paragraph, upon the occurrence and during the continuance of any Event of Default, the Surety shall have the right to collect and receive all rents, payments and indemnities in respect of the Leases and to exercise all rights of the Grantor with respect to the Leases.

(c) Notwithstanding the foregoing, the Surety agrees not to interfere with a lessee's quiet enjoyment of Collateral under a lease entered into in compliance with the Trust Agreement, while it is in effect, and thereafter, the Bank Loan Agreement, so long, but only so long, as no "Event of Default" (as defined in the lease), or event which (without the need for further notice or lapse of time) permits the lease to be terminated, has occurred and is continuing.

6. This Mortgage and Security Agreement shall extend to and include, and the Grantor hereby grants the Surety a security interest in, any proceeds (including without limitation all payments under insurance (whether or not the Surety is the loss payee thereof), or any indemnity, warranty, or guaranty, payable by reason of loss or damage to or otherwise in respect to any of such Collateral) and products of the Collateral and specifically in all per diem, mileage and other fees payable by third parties with regard to the Collateral and any rental or income derived from leasing any of the Collateral. At the request of the Surety, the Grantor will furnish the Surety complete information as to the foregoing items and the Surety shall have the right to require that all payments of such items be made directly to the Surety to be credited against the indebtedness hereby secured, and the Surety may advise the parties owing such payments of its rights under this instrument and direct such parties to make their payments to the Surety.

7. The Grantor consents to the filing of this Mortgage and Security Agreement with the Interstate Commerce Commission in order to perfect the Surety's lien on the Collateral under the provisions of 49 U.S.C.A.

§ 11303 (1979) (formerly Section 20c of the Interstate Commerce Act). The Grantor shall pursuant to § 3(e) hereof pay and reimburse the Surety for all fees and charges incurred or necessary for such filing and recording.

8. (a) The Surety's acceptance of the assignment of the Leases for security shall be on the following terms: (i) the Grantor shall remain liable under the Leases to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Mortgage and Security Agreement had not been executed, (ii) the exercise by the Surety of any of the rights hereunder shall not release the Grantor from any of its duties or obligations under said Leases, and (iii) the Surety shall not have any obligations or liability under said Leases by reason of this Mortgage and Security Agreement, nor shall the Surety be obligated to perform any of the obligations or duties of the Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

(b) Except as otherwise provided in this Mortgage and Security Agreement, the Grantor shall continue to collect, at its own expense, all amounts due or to become due the Grantor under the Leases. In connection with such collections, the Grantor may take (and, at the Surety's direction, shall take) such action as the Grantor or the Surety may deem necessary or advisable to enforce collection of the Leases; provided, however, that the Surety shall have the right at any time, upon written notice to the Grantor of its intention to do so, to direct the lessees under the Leases to make payment of all amounts due or to become due thereunder directly to the Surety and, upon such direction and at the expense of the Grantor, to enforce collection of any of the Leases in the same manner and to the same extent as the Grantor might have done. After receipt by the Grantor of the notice from the Surety referred to in the proviso to the preceding sentence, all amounts received by the Grantor in respect of the Leases shall be received in trust for the benefit of the Surety hereunder, shall be segregated from other funds of the Grantor and shall be forthwith paid over to the Surety to be held as cash collateral and either (A) released to the Grantor after payment of all amounts then due and payable, so long as no Event of Default shall have occurred and be continuing or (B) if any Event of Default shall have occurred and be continu-

ing, applied to payment of the amounts payable secured by this Mortgage and Security Agreement. Notwithstanding anything else to the contrary herein contained, on or before the execution hereof, and so long as the Trust Agreement is in effect, the Grantor shall direct the lessees under the Leases to make payment of all periodic rental payments due or to become due thereunder directly to the Trustee; and provided, further, that the Grantor shall direct any person which shall purchase any of the Collateral, or any interest therein, to make payment of the total purchase price directly to the Trustee; and provided, further, that the Grantor shall have the obligation and sole responsibility for billing lessees, keeping corresponding records of any invoices and payments, causing lessees to make current and/or past due payments and causing lessees to perform their other obligations under the Leases except that the Trustee shall have the right, upon written notice to the Grantor, to undertake any or all of such functions. All amounts received by the Grantor as payment of purchase price for any of the Collateral or in respect of the Leases while the Trust Agreement is in effect shall be received in trust for the benefit of the Trustee thereunder, shall be segregated from other funds of the Grantor and shall be forthwith paid over to the Trustee to be held or applied as provided in the Trust Agreement.

9. Waiver by the Grantor. To the extent permitted by law, the Grantor covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension permitted by law now or at any time hereafter in force, nor claim, take nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisement of the Collateral or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision contained in Section 4 hereof, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the Collateral so sold or any part thereof, and, to the full extent legally permitted, hereby expressly waives for itself and on behalf of each and every person, all benefit and advantage of any such law or laws, covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to

the Surety, but will suffer and permit the execution of every such power as though no such power, law or laws had been made or enacted.

10. (a) Time shall be of the essence in the performance by the Grantor of all its covenants, obligations and agreements hereunder.

(b) This instrument and the agreement evidenced hereby shall, to the extent Federal law is not applicable, be governed and construed in accordance with the laws of the State of New York.

(c) This Mortgage and Security Agreement shall be binding upon the Grantor and its successors and assigns and shall inure to the benefit of the Surety and its successors and assigns. The Surety, without the consent of the Grantor, may assign its rights under this Mortgage and Security Agreement, in which event the Surety's assignee shall succeed to all the rights of the Surety hereunder.

11. Notwithstanding anything to the contrary contained herein or elsewhere (except as set forth in the proviso below), the Surety agrees that it will not assert, directly or indirectly, in its own name, by or on behalf of the Grantor or otherwise, any claim against any limited or general partner in the Grantor for payment or performance of any duty, liability or other obligation of the Grantor arising hereunder or under the Original Notes or the Original Agreement (as such terms are defined in the Bank Loan Agreement), and the Surety hereby waives any claim it may now or hereafter have against any partner in the Grantor pursuant to Section 17-502 of the Delaware Revised Limited Partnership Act with respect to any returned capital contribution and agrees to repay any amount received by it constituting returned capital contributions recovered from any partner in the Grantor notwithstanding the provisions of this Section 11, provided, however, that nothing herein waives or limits the Surety's rights with respect to claims for distributions to partners made in violation of covenants of the Grantor contained in Section 4.02(e) of the Bank Loan Agreement, or with respect to claims against Equilease Management Corporation for material misrepresentations made in Section 4.1(a), (c), (e) or (f) of the Restructure Agreement. Moreover, nothing in this Section 11 shall act as a limitation on, or waiver of, any right the Surety may

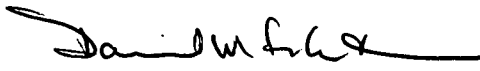
have under the Support Agreement (as defined in the Reimbursement Agreement).

12. Notwithstanding anything provided herein to the contrary, the relative rights and priorities of the Surety under this Mortgage and Security Agreement and the Bank under the Bank Mortgage and Security Agreement (as defined in the Restructure Agreement) shall be as provided for in Section 6 of the Restructure Agreement.

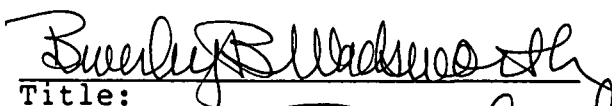
IN TESTIMONY WHEREOF, the parties hereto have each caused this Mortgage and Security Agreement to be duly executed on their behalf the day and year first above set forth.

EQUIFUND L.P.

By EQUILEASE MANAGEMENT
CORPORATION,
General Partner

By 
Title: SE Vice President

FIREMEN'S INSURANCE COMPANY OF
NEWARK, NEW JERSEY

By 
Title: Vice President

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 28th day of May, 1987, before me personally appeared O. Testa to me known to be a Dr. VP of Equilease Management Corporation, the general partner of Equifund L.P. (a party to this agreement) who executed the foregoing instrument, who by me duly sworn said and affirmed that said instrument was signed on behalf of said corporation in its capacity as general partner by authority of its board of directors, and he acknowledged that he executed said instrument as his free act and deed.

IN TESTIMONY WHEREOF, witness my hand and notarial seal.

Barbara J. Ruby
Notary Public
BARBARA J. RUBY
Notary Public, State of New York
No. 31-8696885
Qualified in New York County
Commission Expires October 31, 1988

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 28th day of May, 1987, before me personally appeared Beverly B. Wadsworth to me personally known, who being by me duly sworn, says that he is a Vice President of Firemen's Insurance Company of Newark, New Jersey, a New Jersey insurance company, who executed the foregoing instrument, who by me duly sworn said and affirmed that said instrument was signed on behalf of said insurance company by authority of its board of directors, and he acknowledged that he executed said instrument as his free act and deed.

IN TESTIMONY WHEREOF, witness my hand and notarial seal.

Lucy R. Lockhart
Notary Public

LUCY R. LOCKHART
Notary Public, State of New York
No. 4711109
Qualified in Nassau County
Certificate filed in New York County
Commission Expires June 30, 1988